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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

IRAN

1. The Committee considered the initial report of Iran, Islamic Republic of, (E/1990/5/Add.9) at its 7th, 8th, 9th and 20th meetings, held on 18, 19 and 28 May 1993, and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its willingness to cooperate with the Committee and for engaging in a dialogue with the Committee. The Committee notes with satisfaction that some of the concluding observations formulated by the Committee at its fifth session (E/1991/23, paras. 209-212) have been given consideration by the Government of Iran and that, as requested by the Committee, the report under consideration also contains information relating specifically to the implementation of article 15 of the Covenant as well as information concerning the situation of women in Iran. At the same time, the Committee finds that the report, being essentially legalistic, does not include sufficient information about the implementation of the Covenant in practice and about factors and difficulties which might impede the application of the Covenant. Moreover, the report does not provide sufficient information on the implementation of articles 1 to 5 of the Covenant. In view of the foregoing, the Committee welcomes the oral

* At its 20th meeting (eighth session), held on 28 May 1993.

replies and clarification provided by the delegation of the State party that, to some extent, supplemented the information provided in the written report and permitted the Committee to obtain a clearer picture of the degree of implementation by the Government of Iran of the provisions of the Covenant.

B. Positive aspects

3. The Committee notes that the rate of unemployment, which had risen to 15 per cent as a result of the war with Iraq has, in the four years since the end of the war, fallen to 10 per cent; that under new labour legislation annual leave has been increased from 12 to 30 days and that the minimum age for employment has been raised from 12 to 15 years; that the Ministry of Labour has established a countrywide network of labour inspectors whose task is to ensure compliance with Labour regulations and who have the authority to shut down part or whole of an enterprise in which safety measures are considered inadequate.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes that the written report submitted by the Government of Iran contains no information on the factors and difficulties affecting the degree of fulfilment of its obligations under the present Covenant as required by article 17 (2) of the Covenant. However, the Committee observes that various articles of the Constitution of Iran subject the enjoyment of universally recognized human rights, including economic, social and cultural rights, to such restrictions as: "provided it is not against Islam" (art. 28); "with due regard to Islamic standards" (art. 20); "in conformity with the Islamic criteria" (art. 20); and "except when it is detrimental to the fundamental principles of Islam" (art. 24). In that connection the Committee considers, in the light of the Covenant provisions and of all the information available to it, that such restrictive clauses negatively affect the application of the Covenant, in particular its articles 2 (2) (non-discrimination), article 3 (equality of rights of men and women), article 6 (right to work), article 12 (right to health), article 13 (right to education) and article 15 (right to take part in cultural life). It is apparent that the authorities in Iran are using the religion as a pretext in order to abuse these rights.

D. Principal subjects of concern

5. The Committee regrets that the documentation made available to it by non-governmental organizations and the report of the Special Rapporteur of the Commission on Human Rights, Mr. Renaldo Galindo Pohl (E/CN.4/1993/41), confirm the broad consensus that there has been practically no progress in ensuring greater respect and protection for rights of the non-Muslim religious communities in the Islamic Republic of Iran in general, and of the economic, social and cultural rights of persons belonging to those minority groups in particular. The Committee draws again the attention to the following concerns

expressed at its fifth session in 1990 about the situation of certain minority groups, which have not been satisfactorily answered in the course of the present session:

(a) Violation of the rights of the Baha'i community;

(b) Violation of economic, social and cultural rights in addition to violation of political and civil rights;

(c) Discrimination on religious grounds in the educational system;

(d) Insufficiency of the education offered to the children belonging to the Kurdish minority;

(e) Prohibition of the admission to university of Baha'is;

(f) Restriction of freedom of debate and choice in the university institutions;

(g) The situation of the Kurds and the disparities that exist between the different ethnic and economic groups in the enjoyment of their rights to education, to work, to travel, to housing and to the enjoyment of cultural activities.

6. The Committee expresses its particular concern with respect to the non-performance by the Government of Iran of its obligation under article 3 of the Covenant, under which the States parties undertake to ensure the equality of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant. In that connection the Committee finds that the situations: in which women are not permitted to study engineering, agriculture, mining or metallurgy or to become magistrates; in which they are excluded from a very large number of specific subjects at university level; and in which they need their husbands' permission to work or travel abroad; to be incompatible with the obligations undertaken by the State party under the Covenant. The Committee seeks further clarification as to which women's rights have been "revived" in accordance with article 20 (i) of the Constitution.

7. In relation to the right to take part in cultural life, the Committee would also like to have more precise information on legislation and policies protecting creative freedom. In particular, the Committee expresses its grave concern at the negative implications for this right of the issuance of fatwahs. During the Committee's examination of the report, several members drew attention in this regard to the case of an author, Mr Salman Rushdie. While appreciating that fatwahs are issued by the religious authorities and not by State organizations per se, the question of State responsibility clearly arises in circumstances in which the State does not take whatever measures are available to it to remove clear threats to the rights applicable in Iran in consequence of its ratification of the Covenant. The Committee calls upon the Government of Iran to affirm that it rejects the acceptability, in terms of its international human rights obligations, of the issuance of such fatwahs. It also requests the Government to assure the Committee that if

such a fatwah were to be carried out in Iran, or elsewhere by an Iranian citizen, the Government would ensure the criminal prosecution of the individual(s) concerned.

E. Suggestions and recommendations

8. The Committee recommends that the State party should spell out a clear legislative, judicial and administrative basis for giving fullest possible effect to the provisions of the Covenant "with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures." (art. 2 (1) of the Covenant). The Committee invites the Government of Iran to undertake necessary steps, both legislative and practical, in order to ensure that the rights enunciated in the Covenant are able to be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, especially in the case of ethnic or religious minorities. The Committee notes that the obligation to ensure equal opportunity for women warrants particular attention, especially in relation to the right to work, family related rights and the right to education.

9. The Committee further recommends that the second periodic report of Iran should contain information not only on legislative measures adopted, but also on the application of these measures, on the difficulties encountered in the process of their implementation, and on the issues dealt with in the present concluding observations.